

# Keeping Bristol Safe Partnership Briefing Note

## Liberty Protection Safeguards (LPS)

In July 2018, the government published a Mental Capacity (Amendment) Bill, which passed into law in May 2019. It replaces the **Deprivation of Liberty Safeguards** (DoLS) with a scheme known as the **Liberty Protection Safeguards**. The target date for implementation is **October 2020**.

Key points around LPS to note include:

- LPS start at 16 years old, whereas DoLS applied to those aged 18+.
- Deprivations of liberty have to be authorised in advance by the 'responsible body'.
  - For NHS hospitals, this will be the 'hospital manager'.
  - For arrangements under Continuing Health Care outside of a hospital, this will be the local CCG
  - In all other cases (such as in care homes), the responsible body will be the local authority. The Act also allows care home managers to lead on the assessments of capacity and pass their findings to the local authority.
- For the responsible body to authorise any deprivation of liberty, it needs to be clear that:
  - The person lacks the capacity to consent to the care arrangements
  - The person has a mental disorder
  - The arrangements are necessary to prevent harm to the cared-for person, and proportionate to the likelihood and seriousness of that harm.
- The responsible body must consult with the person and others, to understand the person's wishes about the arrangements. Where the person objects to the care arrangements then a more thorough review of the case must be carried out by an Approved Mental Capacity Professional.
- Safeguards once a deprivation is authorised include regular reviews by the responsible body and the right to an appropriate person or an IMCA to represent a person and protect their interests.
- As under DoLS, a deprivation can be for a maximum of one year initially. Under LPS, this can be renewed initially for one year, but subsequent to that for up to three years.
- As under DoLS, the Court of Protection will oversee any disputes or appeals.
- The new Act also broadens the scope to treat people, and deprive them of their liberty, in a medical emergency, without gaining prior authorisation.